



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/574,307

04/20/2007

John S. Blanchard

96700/1123

7110

1912

7590

07/23/2009

AMSTER, ROTHSTEIN & EBENSTEIN LLP  
90 PARK AVENUE  
NEW YORK, NY 10016

EXAMINER

GITOMER, RALPH J

ART UNIT

PAPER NUMBER

1657

MAIL DATE

DELIVERY MODE

07/23/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/574,307	BLANCHARD, JOHN S.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ralph Gitomer	1657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6, 10, 11, 14, 15, 17-23, 26, 103 and 106 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10, 11, 14, 15, 17-23, 26, 103 and 106 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/20/07</u> .   | 6) <input type="checkbox"/> Other: _____                          |

Art Unit: 1657

The IDS received 4/20/07 has been entered and claims 1-6, 10, 11, 14, 15, 17-23, 26, 103, 106 are currently pending in this application.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 103 and 106 are rejected under 35 U.S.C. 102(b) as being anticipated by McCarthy.

McCarthy (FEBS Letters) entitled "Reaction of Chloroacetyl CoA with Rabbit Fatty Acid Synthase" teaches in the abstract, chloroacetyl CoA inhibits fatty acid synthase by reacting with pantetheine thiol. On page 259 Fig. 3 shows a pathway with chloroacetyl CoA, acyl transferase and thiol pantetheine. On page 257 column 2 last paragraph, chloro <sup>14</sup>C acetyl CoA was a labeled form of acetyl CoA employed to study the reaction.

All the features of the claims are taught by McCarthy for the same function as claimed.

Art Unit: 1657

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6, 10, 11, 14, 15, 17-23, 26, 103, 106 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each of the following applies in all occurrences.

Claim 1 lacks a correlating step to accomplish the preamble. Claim 2 is confusing where in claim 1 the labeled reagent and the halo compound must be different substances. Claim 3 fails to further limit claim 1 from which it depends. Claim 26 is not understood as to what may be intended by "the acetyltransferase further comprises an affinity tag". What is the function of the tag? The claim is so incomplete as to not be understood where the only method step is combining. No steps are seen to accomplish the preamble of the claim.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The abstract of the disclosure is objected to because it is not directed to the currently claimed invention. Correction is required. See MPEP § 608.01(b).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Huang (5,869,275) teaches a transferase assay.

Klein (2002/0002144) teaches acetyltransferases.

Art Unit: 1657

Patel (J of Biological Chem) entitled "Substrate Specificity of Acetyl Coenzyme A Synthetase" teaches on page 7134 fluoroacetyl coenzyme A.

Tian (Biochim Biophys Acta) entitled "Affinity Labeling of Chicken Liver Fatty Acid Synthase with Chloroacetyl CoA and Bromopyruvate" teaches chloroacetyl CoA kinetics in synthase reactions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ralph Gitomer whose telephone number is (571) 272-0916. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on (571) 272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1657

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ralph Gitomer/  
Primary Examiner, Art Unit 1657

Ralph Gitomer  
Primary Examiner  
Art Unit 1657